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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . Nos.15507 and 15509 of 2021

Ganesan ... Petitioner/Accused No.3
(Crl.O.P.(MD)No.15507/2021)

Thanuskodi ... Petitioner/Accused No.5
(Crl.O.P.(MD)No.15509/2021)

Vs

State rep.by
The Inspector of Police,
NIBCID,
Theni,
Theni District. ... Respondent/Complainant
(Crime No.28/2021) (in both petitions)

For Petitioners: M/s.Mahendrapathy.S, Advocate.
(in both petitions)

For Respondent : M/s.T.Senthilkumar,
Additional Public Prosecutor
(in both petitions)

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER :-

For Bail in Crime No.28 of 2021 on the file of the Respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/A3 and A5, who were arrested on 20.01.2021 for the offence punishable under Sections 8(c) r/w. 20(b)(ii)(C), 25 and 29(1) of NDPS Act in Cr.No.28 of 2021, on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on 20.01.2021, at about 06.30 hrs., the respondent Police, on secret information, conducted raid near Cumbum Mettu Area, Bye-Pass Road, Cumbum and on search, they found that the petitioners and other accused persons were in



possession of 52 kgs of ganja and the entire contraband was seized. Hence, the case.

3. The learned counsel for the petitioners submits that the petitioners are innocents and they have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submits that there was a delay of 20 days in contraband reaching the Special Court, for EC and NDPS Cases, Madurai. Therefore, there is a violation of Section 55 of NDPS Act. He further submits that in this case, charge sheet has been filed and the same was taken on file as C.C.No.383 of 2021, on the file of the Principal Special Court for EC and NDPS Act cases, Madurai. Since the petitioners have been languishing in jail from 20.01.2021, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor submits that totally there are eight accused. On the date of occurrence, all the accused were present and the petitioners/A3 and A5 were also present in the place of occurrence, from whom, the entire contraband was recovered. After the arrest, all the accused along with contraband were produced before the nearest Magistrate, namely, the learned Judicial Magistrate, Uthamapalayam in From No.95 and the learned Judicial Magistrate, Uthamapalayam, permitted the respondent Police to take samples in his presence and thereafter, the contraband as well as the accused were sent to the Special Court. Therefore, there was a delay of 20 days in sending the samples and there was no delay on the part of the respondent Police.

5. This Court paid its anxious consideration to the rival submissions made.

6. The entire contraband of 52 kgs. of ganja has been recovered from the petitioners. Though there was a delay in contraband reaching the Court, there was no delay on the part of the respondent Police. Further, the contraband has been produced before the nearest Magistrate along with the accused on the same day.

7. Considering the nature of offence and in view of provisions under Section 37 of NDPS Act, this Court is not inclined to grant bail to the petitioners. Accordingly, the Criminal Original Petitions are dismissed.

8. At this juncture, the learned counsel for the petitioners submits that in this case, charge sheet has been filed and the same has been taken on file as C.C.No.383 of 2021, on the file of the Principal Special Court for EC and NDPS Act cases, Madurai. Since the petitioners have been languishing in jail from 20.01.2021, he prays for speedy disposal of the case.

9. Considering the request made by the learned counsel for the petitioners and also considering the period of incarceration, the trial Court is directed to complete the trial and dispose of the



case in C.C.No.383 of 2021, within a period of four months from the date of receipt of a copy of this order.

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Sd/-
25/10/2021

/ /2021
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. PRINCIPAL SPECIAL COURT FOR
EC AND NDPS ACT CASES,
MADURAI.
2. THE INSPECTOR OF POLICE,
NIBCID, THENI,
THENI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.15507 of 2021
Date :25/10/2021

SP/TR/SAR I/11/11/2021/3P/5C